



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, DC 20240

JUL 07 2020

Muck Rock News
DEPT MR 93150 411A Highland Ave
Somerville, MA 02144

Dear Mr. Forman:

The Bureau of Indian Affairs-Office of Justice Services received your Freedom of Information Act (FOIA) request, dated May 20, 2020, on May 20, 2020 and assigned it control number BIA-2020-00867. Please cite this number in any future communications with our office regarding your request.

You requested "the contract between BIA and/or Office of Justice Services and the Lincoln County Detention Facility and/or parent company CSG Programs concerning the detention of Mescalero Apache Tribe inmates."

We have classified you as a representative of the news media. As such, we may charge you for some of our duplication costs, but we will not charge you for our search or review costs; you also are entitled to up to 100 pages of photocopies (or an equivalent volume) for free. See [43 C.F.R. § 2.39](#). If, after taking into consideration your fee category entitlements, our processing costs are less than \$50.00, we will not bill you because the cost of collection would be greater than the fee collected. See [43 C.F.R. § 2.37\(g\)](#).

We do not bill requesters for FOIA processing fees when their fees are less than \$50.00, because the cost of collection would be greater than the fee collected. See [43 C.F.R. § 2.37\(g\)](#). Therefore, there is no billable fee for the processing of this request.

Exemption 6 allows an agency to withhold "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." [5 U.S.C. § 552\(b\)\(6\)](#). We are withholding (enter number of pages after SOL review) in part under Exemption 6.

The phrase "similar files" covers any agency records containing information about a particular individual that can be identified as applying to that individual. To determine whether releasing records containing information about a particular individual would constitute a clearly unwarranted invasion of personal privacy, we are required to balance the privacy interest that would be affected by disclosure against any public interest in the information.

Under the FOIA, the only relevant public interest to consider under the exemption is the extent to which the information sought would shed light on an agency's performance of its statutory duties

or otherwise let citizens "know what their government is up to." The burden is on the requester to establish that disclosure would serve the public interest. When the privacy interest at stake and the public interest in disclosure have been determined, the two competing interests must be weighed against one another to determine which is the greater result of disclosure: the harm to personal privacy or the benefit to the public. The purposes for which the request for information is made do not impact this balancing test, as a release of information requested under the FOIA constitutes a release to the general public.

The information that has been withheld under Exemption 6 consists of personal information such as names, phones numbers, and email addresses, and we have determined that the individuals to whom this information pertains have a substantial privacy interest in withholding it. Additionally, we have determined that the disclosure of this information would shed little or no light on the performance of the agency's statutory duties. Because the harm to personal privacy is greater than whatever public interest may be served by disclosure, release of the information would constitute a clearly unwarranted invasion of the privacy of these individuals and we are withholding it under Exemption 6.

We are withholding approximately (enter number of pages after SOL review) pages in part under FOIA Exemption 4. [5 U.S.C. § 552\(b\)\(4\)](#). Exemption 4 protects "trade secrets and commercial or financial information obtained from a person that is privileged or confidential."

The withheld information is financial information consisting of bank routing and account numbers, of which there is no genuine and significant public interest in disclosure. Also, the submitter does not customarily release this information to the public, so the information is confidential for the purposes of Exemption 4.

Andrea Gillespie, Bureau of Indian Affairs, Program Analyst is responsible for this partial denial. Stephanie P. Kiger, Attorney-Advisor, in the Office of the Solicitor was consulted.

You may appeal this response to the Department's FOIA/Privacy Act Appeals Officer. If you choose to appeal, the FOIA/Privacy Act Appeals Officer must receive your FOIA appeal no later than 90 workdays from the date of this letter. Appeals arriving or delivered after 5 p.m. Eastern Time, Monday through Friday, will be deemed received on the next workday.

Your appeal must be made in writing. You may submit your appeal and accompanying materials to the FOIA/Privacy Act Appeals Officer by mail, courier service, fax, or email. All communications concerning your appeal should be clearly marked with the words: "FREEDOM OF INFORMATION APPEAL." You must include an explanation of why you believe the Bureau of Indian Affairs' response is in error. You must also include with your appeal copies of all correspondence between you and Bureau of Indian Affairs concerning your FOIA request, including your original FOIA request and Bureau of Indian Affairs' response. Failure to include with your appeal all correspondence between you and Bureau of Indian Affairs will result in the Department's rejection of your appeal, unless the FOIA/Privacy Act Appeals Officer determines (in the FOIA/Privacy Act Appeals Officer's sole discretion) that good cause exists to accept the defective appeal.

Please include your name and daytime telephone number (or the name and telephone number of an appropriate contact), email address and fax number (if available) in case the FOIA/Privacy Act

Appeals Officer needs additional information or clarification of your appeal.

DOI FOIA/Privacy Act Appeals Office Contact Information

Department of the Interior
Office of the Solicitor
1849 C Street, N.W.
MS-6556 MIB
Washington, DC 20240

Attn: FOIA/Privacy Act Appeals Office

Telephone: (202) 208-5339
Fax: (202) 208-6677
Email: FOIA.Appeals@sol.doi.gov

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of FOIA. See 5 U.S.C. 552(c). This response is limited to those records that are subject to the requirements of FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

The 2007 FOIA amendments created the Office of Government Information Services (OGIS) to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road - OGIS
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Web: <https://ogis.archives.gov>
Telephone: 202-741-5770
Fax: 202-741-5769
Toll-free: 1-877-684-6448

Please note that using OGIS services does not affect the timing of filing an appeal with the Department's FOIA & Privacy Act Appeals Officer.

If you have any questions about our response to your request, you may contact Andrea Gillespie by phone at (505) 270-6648, by fax at (505) 563-3091, by email at andrea.gillespie@bia.gov, or by mail at 1001 Indian School Rd NW, Suite 251, Albuquerque, NM 87104.

You also may seek dispute resolution services from our FOIA Public Liaison, Heather Garcia, at (202) 208-3135 or at heather.garcia@bia.gov.

Within the BIA, Office of Justice Services, we are committed to provide you, our customer, with the highest quality of service possible.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. Esquerra", with a stylized flourish at the end.

Robert Esquerra
Acting Special Agent in-Charge
Bureau of Indian Affairs
Office of Justice Services-District 4

Enclosure